App. No. 10/536,590
Office Action Dated July 11, 2008

REMARKS

Favorable reconsideration is respectfully requested in view of the above amendments and following remarks. Claim 1 has been amended to include the features of previous claim 29. No new matter has been added. Claims 1-5 and 11-28 and 30-32 are pending.

Claim rejections - 35 U.S.C. § 102

Claims 1-5, 11-13, 15, 25-26, 28 and 30-31 are rejected under 35 USC 102(b) as being anticipated by WO 02/078568 (Browning). The rejection is rendered moot, as claim 29, which was not included in this rejection, has been incorporated into claim 1. Applicants do not concede the correctness of the rejection.

Claim rejections - 35 U.S.C. § 102/103

Claims 14 and 32 are rejected under 35 USC 102(b) as being anticipated by or, in the alternative, under 35 USC 103(a) as obvious over Browning. The rejection is rendered moot, as claim 29, which was not included in this rejection, has been incorporated into claim 1. Applicants do not concede the correctness of the rejection.

Claim rejections - 35 U.S.C. § 103

Claims 17-24 are rejected under 35 USC 103(a) as being unpatentable over Browning in view of EP 1 022 031 (Matsuda). The rejection is rendered moot, as claim 29, which was not included in this rejection, has been incorporated into claim 1. Applicants do not concede the correctness of the rejection.

Claim 16 is rejected under 35 USC 103(a) as being unpatentable over Browning in view of US 5854381 (Jurgens). The rejection is rendered moot, as claim 29, which was not included in this rejection, has been incorporated into claim 1. Applicants do not concede the correctness of the rejection.

Claim 27 is rejected under 35 USC 103(a) as being unpatentable over Browning in view of US 4374063 (Consolazio). The rejection is rendered moot, as claim 29, which was not included in this rejection, has been incorporated into claim 1. Applicants do not concede the correctness of the rejection.

Claim 29 is rejected under 35 USC 103(a) as being unpatentable over Browning. Applicants respectfully traverse the rejection.

Claim 1 requires a yarn of the warp knitted fabric to include a multifilament yarn, and the thickness of the yarn to be in a range of 30 to 200 d (33.3 decitex to 222.2 decitex). Claim

1 further requires the reinforcing material to be disposed so as to extend over an entire area in plane direction of at least one of a surface and an internal part of the gelatin film, and the reinforcing material and the gelatin film to be integrated with each other. Advantageously, the properties of the reinforcing material and the gelatin film required by claim 1 are such that even when the yarns are highly tangled with one another at yarn-intersecting portions, the gelatin film can infiltrate into areas between filaments so that the reinforcing material and the gelatin film can become integrated with each other, thereby providing a medical film with superior tensile strength and yarn threading tension (see, e.g., page 39, lines 7-25 of the specification). In addition, the configuration of the medical film required by claim 1 allows the gelatin film to be used after being cut into any desired form or a size and yet retain a sufficient amount of yard threading tension so that the medical film may be applied to any part of the living body (see, e.g., page 3, lines 20-23 of the specification). This configuration further allows suturing to be carried out as many times as needed at a portion of the medical film different from the portion that has already been subjected to suturing, even in the case where the medical film that has been already fixed at the application site by suturing, needs to be peeled off (see, e.g., page 3, lines 23-27 of the specification).

Browning is directed to a surgical implant for the treatment of hernia, and in particular, a uterovaginal prolapse (page 1, line 3 to page 6, line 15). The reference addresses the problems involved with mesh treatments of the uterovaginal prolapse by providing a surgical implant that does not cause too much tension around the vaginal wall and encourages acceptance of the implant in the body through the use of pores (page 6, lines 13-15). More particularly, Browning teaches that the surgical implant includes a mesh and a coating, and that the coating can encapsulate the mesh or alternatively, the coating can be applied to at least one face of the mesh (page 12, lines 10-14). Brown further teaches that their surgical implant is comprised of narrow members arranged to be spaced by relatively wide gaps and major spaces, and notes that it is desirable for the mesh to have means for promoting tissue in-growth between the members (page 9, line 29 to page 10, line 1). Brown also teaches that two filaments can be interwoven/knitted to produce strands of the mesh comprising pores, and it is desirable to provide pores in the strands of the mesh to further aid tissue in-growth between the members (page 10, lines 1-4). Browning further notes that conventional meshes are generally unnecessarily strong for use in the treatment of hernia, and distinguishes their mesh

from the prior art by noting that their mesh is configured so as to provide only a sufficient tensile strength to securely support the defect and tissue being repaired (page 5, lines 27-29 and page 7, lines 27-29).

It is clear from the above description that in Browning's surgical implant, the mesh and the coating are configured such that when the mesh is provided on a surface of the coating or encapsulated by the coating, hollow spaces are formed between or within the members so as to aid tissue in-growth between the members, and the mesh has less strength as compared to conventional meshes so as to avoid causing tension in the surrounding areas of the vaginal wall.

On the other hand, claim 1 requires the medical film to be configured so that the reinforcing material and the gelatin film are integrated with each other, thereby providing a medical film with superior strength. Nothing in Browning teaches or suggests a surgical implant with a mesh that is integrated with the coating as required by claim 1, let alone using a yarn that includes a multifilament yarn having a thickness as required by claim 1.

The rejection contends that linear density is a result effective variable, and from Browning's teachings of the filaments of the mesh having a diameter of 0.02 to 0.015 mm, it would have obvious to create the knitted mesh of Browning with a yarn denier ranging from 30 to 200, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. However, Browning's mesh is configured to achieve a result that is opposite to that of claim 1. That is, as noted above, Browning's surgical implant includes a mesh with a diminished strength as compared to conventional meshes. As such, contrary to the rejection's position, nothing in Browning provides any reasonable basis for using a yarn that includes a multifilament yarn having a thickness in a range of 30 to 200 d as required by claim 1. Accordingly, claim 1 is patentable over Browning for at least the above reasons.

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In view of the above, favorable reconsideration in the form of a notice of allowance is requested. Any questions or concerns regarding this communication can be directed to the attorney-of-record, Douglas P. Mueller, Reg. No. 30,300, at (612) 455.3804.

Respectfully submitted,

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Dated: October 31, 2008

By: _____
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